

**BEFORE THE INDIANA
CASE REVIEW PANEL**

In the Matter of C. C. W.,)	
Petitioner)	CAUSE NO. 050119-36
and)	
The Indiana High School Athletic Assoc. (IHSAA),)	
Respondent)	
)	Closed Hearing
Review Conducted Pursuant to)	
I.C. 20-5-63 et seq.)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PROCEDURAL HISTORY

Petitioner is a 15-year-old sophomore (d/o/b January 25, 1989) at New Castle Chrysler High School, a public high school in New Castle, Indiana (hereafter referred to as “New Castle”). She attended New Castle for her freshman year of high school (2003-2004 school year). During Petitioner’s freshman year, she played varsity soccer, basketball, and softball. On June 1, 2004, Petitioner transferred to Anderson High School, where she participated on the varsity soccer team. Petitioner had previously been enrolled in the Anderson Community School Corporation and lived in Anderson with her family during her middle school years (hereafter, all references will be to “Anderson”). During her 5th and 6th grade years, Petitioner attended and played basketball for Forest Hills Elementary School and Northside Middle School, respectively. Petitioner’s father coached both basketball teams. In 7th grade Petitioner’s family remained in Anderson, but Petitioner attended school in and played basketball for Northview Middle School in Indianapolis. The middle school is a part of the MSD of Washington Township. Petitioner’s father retained a coaching position at Northview that year as well. In 8th grade, Petitioner attended Cowan Middle School, Cowan Community School Corporation, where her father coached, and she played basketball. The family lived in Cowan. The family moved to New Castle for Petitioner’s freshman year of high school. Petitioner’s father retained a coaching position at the high school where his daughter played basketball.

In April of 2004, Petitioner’s father received notice from his company that they “strongly encouraged” him to live in proximity to his job in Anderson, Indiana. In June, once the school year was completed, the family moved to Anderson and rented a home. Athletic transfer was granted on June 29, 2004, by the Respondent pursuant to Rule C-19-5 of Respondent’s By-Laws.¹ The reasons

¹The IHSAA has promulgated a series of by-laws as a part of its sanctioning procedures for interscholastic athletic competition. Some by-laws apply to specific genders, but many of the by-laws are

for the move were verified by a letter from Petitioner's father's employer. At the beginning of the 2004-2005 school year, Petitioner participated in varsity soccer at Anderson and became involved in the basketball program. The family participated in promotional campaigns for the basketball team, attended basketball camps, and Petitioner's mother attended most practices. Petitioner's father, who has been actively involved in coaching, believed that he should have been considered for a coaching vacancy in Anderson, even though he had not applied for the position. The father and the Anderson coach had several telephone conversations, which began as heated exchanges but eventually resolved into a more civil discourse. On November 2, 2004, Petitioner's father provided the basketball coach at Anderson with a list of potential areas of improvement for the team. There is some disagreement as to whether this was requested by the Anderson coach or a unilateral decision by the father.

On Sunday evening, November 7, 2004, Petitioner's parents visited the Anderson coach at his home to inform him that they were transferring Petitioner back to New Castle because of the purported high levels of drug and alcohol use as well as premarital sexual activity among students at Anderson. Petitioner was enrolled in New Castle the next day, November 8, 2004. The transfer report from Anderson to New Castle was received in the Respondent's office on that same date, indicating a "bona fide change of residence" had taken place.² On November 9, 2004, Petitioner was initially provided full eligibility to participate in athletics; however, circumstances surrounding the move resulted in Anderson revising its transfer report on November 12, 2004, to indicate the move was primarily for athletic reasons. Following further investigation, Respondent's Commissioner, Blake Ress, on November 19, 2004, reversed the earlier eligibility decision and ruled that Petitioner was athletically ineligible under **Rule C-19-4**³. The move to New Castle was "primarily for athletic

"common" to all potential athletes and, hence, begin with "C." Rule C-19-5 provides as follows:

²"Bona Fide Change of Residence" is defined under **Rule C-19** as follows:

Bona Fide change of residence – Determination of what constitutes a 'bona fide' change of residence depends upon the facts in each case, however, to be considered, the following facts must exist:

- a. the original residence must be abandoned as a residence; that is, sold, rented or disposed of, or in the process of being disposed of as a residence and must not be used as a residence by any member of the student's immediate family; and
- b. the student's entire immediate family must make the change and take with them the household goods and furniture appropriate to the circumstances. For eligibility purposes, a single family unit may not maintain two or more residences.
- c. the change of residence must be genuine, without fraud or deceit, and with permanent intent.

³**C-19-4 TRANSFERS FOR PRIMARILY ATHLETIC REASONS**

To preserve the integrity of interschool athletics and to prevent or minimize recruiting, proselytizing and school 'jumping' for athletic reasons, regardless of the circumstances, student athletes who transfer from one school to another for primarily athletic reasons or as a result of undue influence will become ineligible to participate in interschool athletics in the new school for a period not to exceed 365 days from the date the student enrolls at the new school, provided, however, if a student transfers and it is not discovered at that time that the transfer was primarily for athletic reasons, then under those circumstances,

reasons.”⁴ Petitioner was declared ineligible for athletic participation until November 8, 2005. On November 23, 2004, Petitioner appealed the Commissioner’s decision to Respondent’s Review Committee under **Rule C-17-4**. A review on this matter was conducted on December 16, 2004. The Review Committee affirmed the Commissioner’s decision by written decision dated December 28, 2004.

APPEAL TO THE CASE REVIEW PANEL

Petitioner appealed to the Indiana Case Review Panel⁵ on January 19, 2005. The record from the investigation and review by Respondent was requested and received. The parents notified the Case Review Panel on January 26, 2005, that they wished for the proceedings in this matter to be closed to the public. Both parties requested and received subpoenas to secure testimony of witnesses. Hearing was set for February 7, 2005, at the James Whitcomb Riley Conference Room at 151 West Ohio Street, Indianapolis, Indiana, within the offices of the Indiana Department of Education. The parties were advised of their respective hearing rights and received notice of the proceedings.

On February 7, 2005, the CRP convened.⁶ The Petitioner appeared and was represented by her father. The Respondent appeared by counsel. Prior to the hearing, the pre-hearing conference was conducted for the purpose of receiving additional documents and entertaining objections. Petitioner submitted eleven (11) additional documents, while Respondent tendered one (1) additional exhibit.

the student may be declared ineligible for a period not to exceed 365 days following the date of enrollment or, may be declared ineligible for a period not to exceed 365 days commencing on the date that the Commissioner or her designee declares the student ineligible which was the result of a transfer for primarily athletic reasons.

⁴For **Rule C-19** purposes, “Transfer for primarily athletic reasons” is defined as follows:

A transfer for primarily athletic reasons includes, but is not limited to:

- a. a transfer to obtain the athletic advantage of a superior, or inferior, athletic team, a superior athletic facility or a superior coach or coaching staff;
- b. a transfer to obtain relief from a conflict with the philosophy or action of an administrator, teacher or coach relative to athletics;
- c. a transfer seeking a team consistent with the student’s athletic abilities;
- d. a transfer to obtain a means to nullify punitive action taken by the previous school.

⁵The Case Review Panel (CRP) is a nine-member adjudicatory body appointed by the Indiana State Superintendent of Public Instruction. The State Superintendent or her designee serves as the chair. The CRP is a public entity and not a private one. Its function is to review final student-eligibility decisions of the IHSAA when a parent or guardian so requests. Its decision does not affect any By-Law of the IHSAA but is student-specific. In like manner, no by-law of the IHSAA is binding on the CRP. The CRP, by statute, is authorized to uphold, modify, or nullify any student eligibility decision by the Respondent. I.C. 20-5-63-7(c)(3).

⁶Seven members were present: John L. Earnest, Chair; Scott F. Eales; Thomas J. Huberty, Ph.D.; James Perkins, Jr.; Brenda K. Sebastian; Earl H. Smith, Jr.; and Brad Tucker.

<u>Document No.</u>	<u>Description</u>	<u>CRP Disposition</u>
P-1	Minutes of School Board Meeting	No objection; admitted
P-2	Photograph of Anderson A.D. Office	No objection; admitted
P-3	Newspaper article	Objection (hearsay, relevancy); objection noted but document admitted.
P-4/P-5	Statistical charts Anderson/New Castle	Objection (hearsay); objection noted but document admitted.
P-6	Newspaper article	Objection (hearsay; relevancy); sustained
P-7	Newspaper article	Objection (hearsay; relevancy); sustained
P-8	Newspaper article	Objection (hearsay; relevancy); sustained
P-9	Flower Order 5/04/04	No objection; admitted
P-10	New Castle Basketball statistics	No objection; admitted
P-11	Letter dated 12/12/04 from father to Respondent	Objection (never received) Admitted
R-1	Advertisement from <i>Hoosier Basketball</i>	No objection; admitted

Testimony was provided under oath or by affirmation, both in person and by telephone. In consideration of the testimony and record, the following Findings of Fact and Conclusions of Law are determined.

FINDINGS OF FACT

1. Petitioner is fifteen years old (d/o/b January 25, 1989) and is currently a sophomore at New Castle. She attended New Castle for the 2003-2004 school year. She moved with her family to Anderson in June of 2004. Respondent accorded her full eligibility for the 2004-2005 school year because Respondent deemed the move to be in concert with its **Rule C-19-5**. Petitioner began the 2004-2005 school year at Anderson, where she participated as a member of the varsity soccer team. She also participated on the varsity girls' basketball team, where it was projected that she would be a starting guard.
2. During her freshman year at New Castle, Petitioner participated in three sports—soccer, basketball, and softball. She compiled lofty statistics while playing for the New Castle basketball team. During the softball season, she suffered an injury. While recuperating, she received flowers from the Anderson coach with a note reading “Get well soon. We’re

excited to have you.”⁷ The Anderson coach had learned from a conversation with the New Castle coach that occurred around April 18 or 19, 2004, that Petitioner would be moving to Anderson.

3. At the time Petitioner received the flowers, she was not aware that her family would be moving to Anderson. Her father began his current employment in January of 2004. On April 13, 2004, Petitioner’s father received a letter from his employer encouraging him to move closer to Anderson where his employment activities were actually discharged. The letter does not direct him to move, nor does the letter direct him to live in Anderson. It specifically indicates, “Of course, I cannot tell you where you must live; I am making the suggestion based on the needs of the business, and your current situation.” Petitioner’s father, who had been unemployed for at least six months prior to this position, considered the letter to be a directive to not only move but to live in Anderson. The father’s employer testified that she did not direct him to move but suggested that he do so.
4. Prior to the move to New Castle before the 2003-2004 school year, Petitioner and her family lived primarily in Anderson, where she attended Anderson schools until the 7th grade. During the 7th grade, she attended a middle school in Indianapolis as a tuition-paying student. Her father was the basketball coach of the team. Petitioner still resided in Anderson. During her 8th grade year, she attended middle school in Delaware County where her father was basketball coach.⁸
5. When the family moved to New Castle, the father was the freshman basketball coach at New Castle. When Petitioner learned near the end of her freshman year that the family would be moving from New Castle, she engaged in “silent treatment” towards her family, communicating with her parents as little as possible and withdrawing often to her bedroom. The “silent treatment,” according to Petitioner, actually began in her 7th grade year. Her friends described her as increasingly withdrawn and depressed during this period.
6. The family moved to Anderson in June of 2004. Petitioner’s parents became very active in Anderson athletic activities. The father proposed to the Anderson coach that a full-page advertisement should be purchased in *Hoosier Basketball*, an annual magazine that contains previews of the upcoming basketball season in Indiana, with primary emphasis on high school basketball. The Anderson coach indicated that Anderson could not pay for the advertisement and that he did not want an advertisement that would focus on one athlete (*i.e.*, Petitioner). Photographs were taken by the wife of the Anderson coach. From these

⁷Petitioner did not enroll in Anderson until June 1, 2004. The sending of the flowers constituted a violation of Respondent’s by-laws on “undue influence,” **Rule C-20**. Anderson reported the violation to Respondent. The Anderson coach received a one-game suspension.

⁸As the CRP noted at the hearing, the activities preceding her high school years do not have a bearing on its decision. Respondent does not sanction interscholastic athletic competition below the secondary level.

photographs, Petitioner's father completed the advertisement lay-out. The advertisement has photographs of three Anderson athletes, including the Petitioner. The Petitioner is prominently displayed. Facts and figures are incorrect, including the respective heights of the three athletes. Petitioner is noticeably smaller than the other two basketball players, but her height is listed as three inches taller. For reasons not explained, Petitioner's father has not paid for the advertisement.

7. Petitioner testified that the pending move to Anderson and the eventual move to Anderson depressed her to the point that she contemplated self-injurious behavior. When at Anderson, she would nightly telephone her friends back in New Castle. One of her friends testified that she believed Petitioner was suicidal and informed her parents. Petitioner testified that she was dissatisfied with Anderson's academics. Although she earned primarily A's, she did not feel the teachers were challenging. She also asserted Anderson students were "rude"⁹ and threatening; gambled; used drugs and alcohol; and engaged in premarital sex. She also testified that Anderson students, because of school construction, carried around their backpacks, which, she opined, contained weapons, drugs, and knives. She admitted that she had not seen any such contraband in any backpacks, other than a pocket knife. She also admitted that she never reported any instances of illegal or threatening behavior or activities to any Anderson teacher or administrator. Petitioner also related an incident where another student wrote on the back of her shirt. However, she did not report this incident either.
8. Petitioner did try out for the Anderson team, although she testified that she did not want to play for Anderson. She would also employ the "silent treatment" to the Anderson coach as well. The Anderson coach did describe her behavior at times as being "rude." Petitioner said she was unhappy during this period. However, the Anderson coach did not notice any unusual behavior that would have caused him to report concerns to a school counselor. Although Petitioner said she was depressed during this period, she never saw a counselor nor did she seek any assistance. Petitioner described her anger at this time as "9.9" on a ten-point scale.
9. Anderson and New Castle belong to the same athletic league. There is a rivalry between the schools. One New Castle teammate of Petitioner testified to "trash talking" that occurred. She acknowledged that trash-talking is not uncommon, but she represented that trash-talking from Anderson athletes was more ominous. The teammate also testified that Petitioner indicated she disagreed with the Anderson coach's methods and did not feel she was progressing as a player.
10. The Petitioner's father's employer sent him a letter dated October 19, 2004, releasing him from having to live in "close proximity" [sic] to the "hospital work site" in Anderson. The father testified that he never wanted to move back to Anderson in the first place. When he moved from Anderson before Petitioner entered high school, he never wanted to return to Anderson, especially to avoid having Petitioner attend high school there. However, he did

⁹Petitioner described numerous students at numerous schools she attended as "rude."

not consider smaller school districts that surround Anderson. His stated reason for not considering these schools was the academic stature of the school districts, but he provided no documentation to indicate the relative academic status of each school in comparison to Anderson. None of the public school districts surrounding Anderson has as high-profile a girls' basketball team as Anderson and none plays at the same level of competition.

11. Although the Petitioner's father's employer sent him the letter dated October 19, 2004, the father never produced the letter to the Respondent during its investigation into the move from Anderson to New Castle, even though it was known the Respondent was questioning whether such a move was a "bona fide" move. The first time Respondent saw the letter was just before the Review Committee convened on December 16, 2004.
12. During the summer of 2004, Petitioner and her parents were present at open gyms conducted by Anderson, even though she was still recovering from her injury suffered during the softball season at New Castle. The Anderson coach became acquainted with Petitioner and her parents through the summer. The parents became very involved in basketball activities at Anderson. Petitioner's father did approach the Anderson coach about the advertisement in *Hoosier Basketball*. This occurred prior to October 23, 2004. The Anderson coach's wife took the photographs. Contrary to the father's representations, the Anderson coach said Petitioner was actively engaged during the photography session, was smiling, and appeared to be enjoying herself. One photograph shows Petitioner holding a basketball in front of the number "1" revealing only the number "4." The father had requested that Petitioner wear number "4" because this was her jersey number at New Castle. Anderson did not have a number "4" jersey available, so Petitioner wore number "14" but covered up the "1." Petitioner is smiling in the picture. The Anderson coach did not participate in the lay-out of the advertisement. When he did see the advertisement, he did not believe it was a balanced treatment of all three athletes. He noted the statistics on the other two athletes were incorrect.
13. Although the Anderson coach said Petitioner was "distant" on occasions, he was not aware that she was having difficulties in school or suffered from depression or anxiety. Petitioner was adjusting to his coaching style and team concept. He intended to have her start at guard for the Anderson team's first game.
14. Anderson had a basketball coaching vacancy. The vacancy had been posted and a prospect identified. However, the prospect withdrew shortly before the season would have started. The position was filled by another candidate. Petitioner's father did not apply for the position. On or about October 27, 2004, the Anderson team had a basketball practice. This was also "shoe day." Petitioner was absent. The Anderson coach called Petitioner's home and spoke to the father in order to get her shoe size. The conversation, however, became somewhat strained as the father indicated he was "very, very disappointed" he was not selected for the basketball coaching position. He indicated he had better credentials than the other candidates and added that he would not help the team anymore. The Anderson coach stated the father did not apply and that Anderson had a policy against hiring as coaches the

fathers of athletes. The father later telephoned the Anderson coach and apologized for his remarks. The father indicated that he was willing to help the team. Although the father testified he was asked to help, the Anderson coach denies that he requested any assistance from the father. On November 2, 2004, the father provided the Anderson coach with a one-page listing of areas the father perceived needed addressing. The comments are largely innocuous ones, such as one basketball player always starts her dribble to the left, defensive techniques that should be employed, and the like. The father also mentioned that Petitioner “needs to attack her player defensively.” This document was presented to the Anderson coach on November 2, 2004.

15. On November 4, 2004, the Anderson team had its intra-squad game. Petitioner did not perform well in this game. On Sunday night, November 7, 2004, Petitioner and her parents came to the Anderson coach’s house and informed him they were moving to New Castle. The reasons proffered were the purported prevalence of drugs, alcohol, and premarital sexual activities at Anderson. Petitioner’s parents also commented they did not believe the Anderson teachers were well qualified. They did not mention gambling or any safety concerns. The Anderson coach stated he has never had a player suspended or expelled from school for alcohol, drugs, or tobacco use. The Anderson coach was not aware of any dissatisfaction on the part of Petitioner or her parents. He had slated Petitioner to start at guard for Anderson’s season-opening game on Monday, November 8, 2004.
16. On November 8, 2004, Petitioner officially withdrew from Anderson and enrolled again at New Castle. Her parents signed a lease that same date, although they did not move until sometime later. Respondent’s Transfer Report was completed that same date and submitted to Respondent.
17. On November 9, 2004, an IHSA Transfer Report (“Report”) was completed by Petitioner’s parents. The Transfer Report stated that the reason for the transfer was “moved back to where she completed 9th grade school year.” “Rule 19-5” was circled on the Report. Anderson’s athletic director originally recommended full eligibility under Rule 19-5. With both schools in agreement, Respondent determined the Petitioner was athletically eligible under Rule C-19-5. This determination was made on November 9, 2004. New Castle’s season-opening game was scheduled for Tuesday, November 9, 2004. Petitioner contemplated being dressed and available to play, although she did not play in that game.
18. Shortly after Respondent declared Petitioner fully eligible, the Anderson coach discovered that Petitioner had transferred. He advised the Anderson athletic director that it appeared Petitioner’s parents had issues with the coach’s philosophy and style, and that the transfer was athletically motivated. After receiving this new information on November 10, 2004, the athletic director talked to the Respondent about the family’s conflict with the coach and that there were athletic motivations for their transfer. Anderson amended its statement to indicate Petitioner should be ineligible for competition pursuant to Rule C-19-4.

19. Respondent's Commissioner investigated the circumstances. During his investigation, he spoke several times with Petitioner's father. He also began to receive communications from five (5) school districts, asserting Petitioner's father had been seeking coaching positions and "shopping" around his daughter's basketball skills. The father countered these letters and e-mails—which were provided to him by Respondent—with either denials or explanations.¹⁰ The Commissioner stated that in his ten (10) years of conducting such investigations, he had never received so much correspondence from so many diverse sources with respect to a transfer dispute. During his phone conversations with the Petitioner's father, the father did not stress academics as an issue, nor did he at any time make reference to the October 19, 2004, letter from his employer. The principal thrust of the conversations was concerned with athletics. Following this investigation, the Commissioner ruled on November 19, 2004, that Petitioner was ineligible for interscholastic athletic competition until November 8, 2005, pursuant to Rule C-19-4. Petitioner appealed this decision to Respondent's Review Committee on November 23, 2004. The Review Committee conducted its review on December 16, 2004, and thereafter, on December 28, 2004, issued its written decision, affirming the determination by the Commissioner.
20. Petitioner's father submitted a document labeled as "P-11." Respondent objected to the introduction of this document because it had never seen it before. The document purports to challenge correspondence from the basketball coach at Pendleton Heights High School. Petitioner's father asserts the document was submitted for the December 16, 2004, review by Respondent but it does not appear in the record, the father admits he did not raise any objections at the review as to its absence, and it does not bear the same indications as the other documents submitted to the Respondent's Review Committee. All the other documents submitted on behalf of the Petitioner bear a facsimile transmission number for the office of an Indianapolis attorney who was representing the Petitioner and her family at the Review Committee. "P-11" does not bear such a fax indication, nor did Petitioner's father submit any transmission sheet showing that it was sent via facsimile transmission to either his attorney, the Respondent, or anyone. The document was never mentioned in the presentations to the Review Committee. Although the origin of the document is curious, the CRP admitted it into evidence.
21. The Pendleton Heights coach testified before the CRP. She indicated that she and Petitioner's father had been friends and coaching colleagues. He had sought a coaching position at Pendleton Heights. Several discussions occurred between the Pendleton Heights coach and Petitioner's father. The Pendleton Heights coach indicated no positions were available and that she did not hire parents of student-athletes. The Pendleton Heights coach and Petitioner's father met at a fast-food restaurant in Pendleton in late February of 2003 during Petitioner's eighth grade year. Although the parties disagree as to the substance of the conversations that occurred, it is agreed that the Pendleton Heights coach invited Petitioner's father to accompany her to a basketball game that was about to start. Thereafter,

¹⁰There was also an anonymous letter sent to the Respondent and provided to the Petitioner's father. The CRP has not considered the contents of this correspondence.

a series of email exchanges occurred—none of which was introduced into evidence but about which both parties testified without objection. The e-mails indicated a deteriorating relationship between the two and a marked degree of antipathy on the part of the coach's husband toward the Petitioner's father. Although the parties sharply disagree on the content, purpose, and interpretation to be accorded these absent e-mails, one matter is agreed: The father sent an email to the Pendleton Heights coach that stated "your loss is New Castle's gain." The father then enrolled his daughter in New Castle and assumed a basketball coaching job at that school.

22. The father stated his reason for not continuing as a basketball coach at New Castle was due to the demands of his job. The father's job entails contact with health care providers, including psychiatrists.

CONCLUSIONS OF LAW

1. Although the IHSAA is a voluntary, not-for-profit corporation and is not a public entity, its decisions with respect to student eligibility to participate in interscholastic athletic competition are considered "state action," and for this purpose, makes the IHSAA analogous to a quasi-governmental entity. *IHSAA v. Carlberg*, 694 N.E.2d 222 (Ind. 1997), *reh. den.* (Ind. 1998). The Case Review Panel has been created by the Indiana General Assembly to review final student eligibility decisions with respect to interscholastic athletic competition. I.C. § 20-5-63 *et seq.* The Case Review Panel has jurisdiction when a parent or guardian invokes the review function of the Case Review Panel. In the instant matter, the IHSAA has rendered a final determination of student eligibility adverse to the Petitioner. The Petitioner invoked her statutory right to review. The Case Review Panel has jurisdiction to review and determine this matter.
2. Under the Administrative Orders and Procedures Act (AOPA), I.C. § 4-21.5-3-27(d), findings by the CRP must be based upon evidence considered substantial and reliable. This requires the CRP to evaluate documentary and testimonial evidence presented to it. This evaluation process does include credibility assessments.
3. The Petitioner's move to New Castle on November 8, 2004, was primarily for athletic reasons. This conclusion is supported by the statement of New Castle basketball teammate that Petitioner disagreed with the Anderson coach's methods and felt she was not progressing as a player. Petitioner's assertions regarding gambling, threats, intimidation, school safety, drug and alcohol use, premarital sexual activity, and academics were never raised with any school official, teacher or administrator. Some of these issues were raised for the first time on Sunday evening, November 7, 2004, when Petitioner and her parents came unannounced to the Anderson coach's home. The sudden move on November 8, 2004, was not precipitated by any identified or identifiable crisis or event. Although Petitioner's father indicated his employer no longer required him to live in Anderson, an area he professed to dislike intensely and where he did not want Petitioner to attend high school, his

actions are inconsistent with his statements. Assuming his employer did issue the letter on October 19, 2004, the father did not sign a lease in New Castle until November 8, 2004. Immediately preceding this move were the father's angry telephone conversation with the Anderson coach as to why the father was not considered for the coaching vacancy; the statement the father would not help the team; Petitioner's poor showing in the intra-squad game; and the father's unsolicited, one-page listing of areas for team improvement, including an area where Petitioner needed improvement.

4. Although the father expressed disdain for Anderson, he was not ordered to move there, as the letters of April 13, 2004, and October 19, 2004, indicate, as well as the testimony of the author of both letters. The father's actions are again inconsistent with his statements. Despite his avowed intention that Petitioner would not attend high school in Anderson, he did not consider any of the smaller public school districts surrounding Anderson, school districts that were significantly closer to his place of employment than New Castle. He did enroll Petitioner in Anderson but did not express to anyone at Anderson any of his subsequent misgivings regarding safety or academics. Rather, he became actively involved, both in attending open gym sessions and in talking with the Anderson coach. Although he testified that he left the coaching job at New Castle because he no longer had time to coach, he was actively interested in the coaching vacancy at Anderson, even though he did not apply for it. The father believed that he should have been considered for this coaching vacancy, and opined that he was more qualified than any other aspirant for the position. His one-page list of areas for improvement included improvement areas for his daughter. This one-page document was submitted on November 2, 2004. A reasonable interpretation of this letter is that—at that time—there was no intention of moving to New Castle. However, two days later, Petitioner performed poorly in an intra-squad game. There was no event other than the intra-squad game that immediately preceded the Sunday night visit to the Anderson coach's house and the subsequent signing of a lease for property in New Castle the next day. Although academics was proffered as a primary reason, the whirlwind submission and approval of Respondent's Transfer Report with the possibility Petitioner might be able to play for New Castle indicates that athletics was more of a concern.
5. Although Petitioner's father makes much of what he perceived as similarities among the letters from the five school districts stating he had been seeking coaching jobs from them and "shopping" his daughter's skills about, the e-mails and letters do not appear to be all that similar except with respect to the father's activities. The more damaging letter is not one of the five sent to the Respondent; rather, it is the father's own Exhibit P-11, which he submitted to the CRP. In this exhibit, he admits that he related to the Pendleton Heights coach that "your loss is New Castle's gain." Although he characterized this as "sarcastic" and a "frustrated and angry" response, it is nevertheless telling. His statements are, again, inconsistent with his actions. He also had an angry exchange with the Anderson coach. Although this latter exchange did not result directly in the eventual transfer to New Castle for athletic reasons, it certainly played a role, especially when Petitioner played poorly in the subsequent intra-squad game. Petitioner's father was giving the impression that if he would be offered a coaching job, his daughter would play for the employing school district.

6. Petitioner and Petitioner's father testified that Petitioner was suffering from depression and anxiety, brought on by the pending move to Anderson and exacerbated by her being enrolled there. However, their statements are inconsistent with their actions. Petitioner never sought any assistance from anyone at the high school. The Anderson coach, although noting that Petitioner was sometimes "distant," did not perceive that Petitioner was suffering any debilitating condition. The Anderson coach stated Petitioner was fitting in with the team and that he projected her as a starting guard. In addition, although the father's employment entails contact with health care providers, including psychiatrists, he never sought any professional help for his daughter. While it is understandable a high school sophomore would miss her friends from her previous school, the description of mental health concerns, including possible suicidal thoughts, appears to be more a pretext for the transfer for athletic reasons than a viable mental health matter.

ORDER

In consideration of the foregoing, the Case Review Panel, by a vote of 7-0, sustains the determination of the Respondent that Petitioner's transfer was primarily for athletic reasons. Petitioner is ineligible for interscholastic athletic competition sanctioned by Respondent until November 8, 2005.

DATE: February 14, 2005

/s/ John L. Earnest, Chair
Indiana Case Review Panel

APPEAL RIGHT

Any party aggrieved by the decision of the Case Review Panel has thirty (30) calendar days from receipt of this written decision to seek judicial review in a civil court with jurisdiction, as provided by I.C. § 4-21.5-5-5.